



## CITY OF HAYWARD AGENDA REPORT

Meeting Date 09/06/01  
Agenda Item 2

**TO:** Planning Commission

**FROM:** Erik J. Pearson, AICP, Associate Planner


**SUBJECT:** Review of Findings and Conditions of Approval for Variance Application No. 01-180-07 – Jorge & Melinda Alfaro (Applicants/ Owners).

The property is located at 346 Jerilynn Lane, a part of the Santa Clara Neighborhood Plan area in a Single-Family Residential (RS) District.


### RECOMMENDATION:

Staff recommends that the Planning Commission approve the findings and conditions prepared by staff to support the Planning Commission's approval of Variance No. 01-180-07 on June 21, 2001.

*Prepared by:*

  
Erik J. Pearson, AICP  
Associate Planner

*Recommended by:*

  
Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Findings of Approval
- B. Conditions of Approval
- C. Minutes of June 21, 2001

**VARIANCE APPLICATION NO. 01-180-07**  
**Jorge & Melinda Alfaro (Applicant/Owner)**  
**346 Jerilynn Lane**  
**FINDINGS OF APPROVAL**

Findings for Variance Approval for:

- a living room addition 15 feet from the front property line (20 feet required);
  - a porch addition 10 feet from the front property line (15 feet required); and
  - to add square footage to the house without providing the required two-car garage.
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- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15305, *Minor Alterations in Land Use Limitations*.
  - B. There are special circumstances applicable to the property regarding this request in that a portion of the existing residence was originally built with a building line only 15 feet from the front property line.
  - C. Strict application of the Zoning Ordinance would deprive such property of privileges enjoyed by other properties in the vicinity under the same zoning classification in that other homes in the area have been permitted to build somewhat similar additions under previous Zoning Ordinance provisions and interpretations.
  - D. The variance would not constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and the Single-Family Residential District in which the property is situated.
  - E. That the covered patio area does not constitute floor area for the purposes of requiring a two-car garage in that the patio area does not increase the demand for parking at the property.

**VARIANCE APPLICATION NO. 01-180-07**  
**Jorge & Melinda Alfaro (Applicant/Owner)**  
**346 Jerilynn Lane**  
**CONDITIONS OF APPROVAL**

**Conditions of Approval for Variance for:**

- a living room addition 15 feet from the front property line (20 feet required);
  - a porch addition 10 feet from the front property line (15 feet required); and
  - to add square footage to the house without providing the required two-car garage.
1. Variance Application No.01-180-07, to additions to an existing residence, is approved by the Planning Commission on June 21, 2001 according to the plans, labeled Exhibit "A."
  2. This approval is void one year after the effective date of approval unless a building permit application has been submitted and accepted for processing by the Building Official. Any modification to this permit shall require review and approval by the Planning Director.



Planning Manager Anderly explained that the 5-foot buffer allows for vehicle circulation. It serves several purposes. It may have some value for the neighbors as a buffer and large trees would soften the affect of the commercial building as seen from Mission Boulevard.

Commissioner Halliday proposed an amendment in condition 8 to eliminate the requirement for a "5-foot landscape buffer including shrubs." This was accepted.

Commissioner Bogue commented that trees are more important than shrubbery on the rear line.

Acting Principal Planner Patenaude suggested that tree pockets be added instead of a strip. Commissioner Halliday agreed that this is what she had in mind.

Planning Manager Anderly noted that it relates to the species. With larger trees, there wouldn't need to be so many.

Commissioner Thnay suggested trying to preserve adequate standards of the area. His suggestion was for a 5' setback, if the intent of the 10' setback to provide for visibility is not there anymore since the land-scaping is behind the wall.

Chairperson Caveglia asked for a vote. The **motion passed unanimously.**

3. **Use Permit No. 01-160-06 – Donald Boehm (Applicant/Owner):** Request to Amend the Conditions of Approval of Use Permit Application No. 00-160-06 to Allow Truck Access from Smalley Avenue – The Property is Located at 730 and 750 A Street, North Side, In a CC-C (Central City-Commercial) Subdistrict

**Continued until a future date.**

4. **Variance Application No. 01-180-07 – Jorge & Melinda Alfaro (Applicants/Owners):** Request for a Living Room Addition 15 Feet From the Front Property Line (20 Feet Required); a Porch Addition 10 Feet From the Front Property Line (15 Feet Required); and to Add Square Footage to the House Without Providing the Required Two-Car Garage – The Property is Located at 346 Jerilynn Lane, a Part of the Santa Clara Neighborhood Plan Area in a Single-Family Residential (RS) District

Associate Planner Pearson described the property and the variance requests. He noted that the findings wouldn't support the request. He stated that the zoning requirements ask for a two-car garage when more than 50 percent of the house is enlarged beyond the original house size. He noted that the property has room in the rear for an addition but they would still need to provide a two-car garage. He indicated that staff feels that special findings can be met.

Chairperson Caveglia asked about the applicant's letter, which states that Associate Planner Pearson indicated there would be no problem with the addition. He noted that he had no

recollection of Ms. Alfaro coming into the office.

Commissioner Zermeño asked whether this is a real porch or is it decorative. He was told it was mostly decorative.

Commissioner Halliday commented on the photographs of neighboring houses and their lack of garages. She was told many of them might have converted their garages to living areas.

Planning Manager Anderly indicated that the parking requirement was added within the past five-years. She added that before this application was made, at least two planners and she advised the applicant that it would not be supported by staff.

Commissioner Williams asked what the real issue is.

Associate Planner Pearson stated that staff feels there are no legal findings for the variances.

Commissioner Williams asked about enlarging the property when even with the current owners, there would still be a parking issue.

Associate Planner Pearson noted that larger homes generally meant more people with more cars.

Commissioner Sacks asked for a clarification noting that 10 years ago, the City operated one way and some new rules went into effect.

Planning Manager Anderly commented that a previous City Attorney interpreted the zoning ordinance in one way. Since then the law has been codified so that a double-car garage is necessary in this instance, with the proposed size of the house.

Commissioner Thnay commented that the parking is so small. The homes are so far back. Parking is an issue. If we intend to change the requirement of two parking spaces, the City needs to address this problem. For people to expand their homes, this is an enhancement to the City. It's a housing issue that maybe should not apply. He noted that the house would not be huge even with the extension. It is a wide street for parking on both sides. He commented that studies have shown that people in the neighborhood interact more with closer setbacks to the street. Planning Manager Anderly indicated that it is a policy issue to be settled outside this hearing.

Commissioner Halliday asked about the need for the 2-car garage, because of the previous additions to the house, and whether the covered rear porch is considered, under the law, an increase in the living space in the dwelling. She was told that it was an increase to the size of the house.

Commissioner Zermeño asked whether this porch area is a sleeping space. He was told it was not.

The public hearing opened at 9:32 p.m.



Melinda Alfaro said she applied for the variance in March. She noted that she was told there was no problem with the addition. They then developed plans and applied for a \$60,000 loan for the expansion. She noted that her neighbors have done variation of what she is applying to do. She commented that the back porch area is not a living area. It is not enclosed on the sides, only on the top. She commented that the present living room is 12x21 feet. It is not wide enough to be roomy enough. She expressed her frustration with the process and asked for Commission support. She described her neighborhood and the number of houses that have been improved in this way. She noted that every winter, with the flat roof, they have to get up there and sweep the water off the roof. She said they do not have the money to move. They are hoping to retire to this house. She said the neighbors are supportive of the idea of the remodel. They are equally concerned with having to go through this same process.

Commissioner Thnay commented that the design looks great. He asked whether it would be possible to wait until, at some future date, the rules might change.

Ms. Alfaro explained they would like to do this now. If they do the work on the roof, they might as well do it all at one time.

Commissioner Williams asked about her conversation with Mr. Pearson. He commented that the information they received they relied on to begin their loan process and all. He noted that the policy issues are dependent upon the current elected officials. He commented on how they calculated the living area.

Ms. Alfaro noted again that this back patio area is not a living space. It is simply a covered area with open sides. She keeps plants there.

Acting Principal Planner Patenaude referred to the current Parking Ordinance referring to "cumulative additions to a single-family building...increase the original floor area by 50 percent." He noted that the patio could be included by two definitions. One is the definition of structure. Under lot coverage, the area enclosed by exterior walls or similar roof supporting devices.

Commissioner Williams then commented to the applicant that what they are asking is not an awful lot, but we have to change things first. He noted that he did empathize with the applicant.

Commissioner Halliday asked the applicant regarding the porch and whether a modification could be made to keep to the 15-foot setback so there is no further encroachment by the porch.

Ms. Alfaro said she was totally flexible on the porch. She just really wanted her extension.

The public hearing closed at 9:54 p.m.

Commissioner Sacks moved to accept the staff recommendation and deny the variance. It failed for lack of second.

Commissioner Sacks said she spoke with the applicant. It is in established neighborhood. These are small homes on small lots. They were built as starter homes for young couples and never intended to contain big families or extended families. As a result, they did not provide a lot of parking. This is not an application for improvement but enlargement. She commented that the applicant could improve the property without enlarging it.

Chairperson Caveglia stated that the Commission could easily make findings. There are many houses in the neighborhood that have had similar changes and they exist. The original design of the house, and the plot size of the land constitute a condition for granting a variance. Commissioner Williams agreed to move, seconded by Commissioner Halliday, to approve the application based on these findings for approval. Staff was also asked to come back with findings for approval.

Commissioner Halliday noted that this is an issue being discussed in the General Plan. There should be more flexibility in our older neighborhoods. She really wanted to approve this variance. The overall intent is a great improvement. The more attractive homes in the neighborhood are the ones that have been improved.

Commissioner Zermeno commented that they have given the go-ahead to several other homeowners for variances. The Commission should be more flexible so homeowners do not have to move out to keep their homes.

Commissioner Thnay said he also is glad for the motion. He suggested going easier on the staff for any possible errors they might make. They deal with hundreds of people a day. He asked for an amendment, to move the porch back into the 15-foot setback. What you have proposed is nice but because the bulk would be closer to the street, he suggested planting more trees. Commissioner Halliday seconded the motion for an amendment.

Commissioner Halliday suggested that to approve the living room with a 15-foot setback is not at all inconsistent to what others in this neighborhood have done.

Commissioner Bogue asked about adding another amendment to the landscaping plan. He commented that encroaching on the setbacks affects the streetscape. Holding the front door back creates an interesting affect with the wall. The applicant mentioned that this addition would add to the stability, beauty and enhancement of the neighborhood. Commissioner Bogue added that his impression that the rear porch was not a living space. However, the front yard setbacks are encroachment. He asked for a further condition to be included requiring that the rear porch not be enclosed without a variance from the Commission.

Commissioner Thnay said he could live with that.

Commissioner Williams asked about the amendment and the landscape, he then asked what the setback for the porch would be.



Commissioner Thnay said there would be no porch.

Commissioner Sacks reiterated her concern that improvements could be made, but she could not support enlarging the house.

Commissioner Halliday noted that the front has to be broken up with the front door setback.

Commissioner Thnay said this should be deferred to staff to determine.

Commissioner Zermeño said he liked the motion but not the amendments.

Acting Principal Planner Patenaude suggested that if the setback were approved at 15-feet the house would still have an overhang that will cover the front entryway.

**The amendment failed by the following vote:**

AYES:	COMMISSIONERS Bogue, Thnay
NOES:	COMMISSIONER Halliday, Sacks, Williams, Zermeño CHAIRPERSON Caveglia
ABSENT:	None
ABSTAIN:	None

**The motion to grant the variance with findings to approve, passed by the following vote:**

AYES:	COMMISSIONERS Bogue, Thnay, Halliday, Williams, Zermeño CHAIRPERSON Caveglia
NOES:	COMMISSIONER Sacks, Bogue
ABSENT:	None
ABSTAIN:	None

**ADDITIONAL MATTERS**

**5. Oral Report on Planning and Zoning Matters**

There were no oral reports.

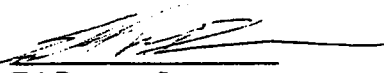
**6. Commissioners' Announcements, Referrals**

Commissioner Bogue commented on the amount of advertising done by Buffalo Bill's to promote the street parties. He said this one was very well attended despite the heat. He invited everyone to come out to the next party as well.



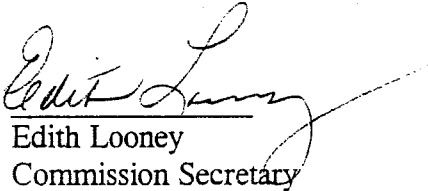
The meeting was adjourned by Chairperson Caveglia at 10:24 p.m.

APPROVED:



Ed Bogue, Secretary  
Planning Commission

ATTEST:



Edith Looney  
Commission Secretary